



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.06.2019
CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

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Crl. R.C. (MD) No.86 of 2011

P.Rajasekaran

.. Revision petitioner/
Appellant/Accused No.1

Vs.

1. Vasanthi

2. The Public Prosecutor,
Madurai Bench of
Madras High Court,
Madurai.

.. Revision respondents/
Respondents/Complainants

Prayer : This Criminal Revision is filed under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the Judgment in Crl.A.No.96 of 2007 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, by confirming the Judgment of conviction in C.C.No.537 of 2002, dated 02.05.2007 on the file of the learned Judicial Magistrate, Sivakasi.

For Petitioner : No appearance.
For R-2 : M/s.S.Bharathi,
Government Advocate (Crl. Side).

ORDER

The Revision petitioner was shown as the first accused in C.C.No.537 of 2012 on the file of the learned Judicial Magistrate, Sivakasi. They were totally 6 accused. In the said case, by Judgment dated 02.05.2007, accused Nos.2 to 6 were acquitted and the first accused, namely, the Revision petitioner alone was found guilty of the offence under Section 497 of I.P.C. and sentenced to 3 years Rigorous Imprisonment and he was also levied with a fine of Rs.5,000/-. This Judgment dated 02.05.2007 made in C.C.No.537 of 2002 on the file of the learned Judicial Magistrate, Sivakasi, was challenged by the Revision petitioner before the learned Principal District Judge, Virudhunagar at Srivilliputhur, by filing C.A.No.96 of 2007. By Judgment dated 25.01.2011, the appeal was dismissed and the Judgment of the trial Court was confirmed. Questioning the same, the Criminal Revision has been filed.

<https://hcservices.ecourts.gov.in/hcservices/>
2. The present Revision arises out of a private complaint. The first respondent Vasanthi is the private complainant. The



said Vasanthi is none other than the wife of the Revision petitioner Rajasekaran. Rajasekaran has developed illicit intimacy with one Pushpa. The marital status of Pushpa is not known. If the relationship between Rajasekaran and Pushpa is an adulterous one, it is only the husband of Pushpa can maintain the complaint. The Revision petitioner's wife Vasanthi cannot maintain the complaint. The offence under Section 497 of I.P.C. has now been struck down as unconstitutional. Of course when this case was filed, the said provision was very much in the statute book. Even then, according to Section 198(2) of the Code of Criminal Procedure, no person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under Section 497 or Section 498 of I.P.C. Therefore, the wife of the Revision petitioner cannot be said to be aggrieved as per law.

3. This elementary aspect of law has been lost sight by both the Courts below. The Judgments of the Courts below are set aside in so far as the finding of the petitioner's guilt under Section 497 of I.P.C.

4. The Revision petition stands allowed, accordingly. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal District Judge,
Virudhunagar at Srivilliputhur.
2. The Judicial Magistrate, Sivakasi.
3. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

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